

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2754

AN ACT

AMENDING SECTIONS 32-2402, 32-2404, 32-2602 AND 32-2636, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 24, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2413; AMENDING TITLE 32, CHAPTER 26, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2610; RELATING TO PRIVATE INVESTIGATORS AND SECURITY GUARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2402, Arizona Revised Statutes, is amended to
3 read:

4 32-2402. Administration by director; duty to keep records;
5 rules; criminal history records checks

6 A. The director of the department of public safety shall administer
7 this chapter.

8 B. The department shall keep a record of:

9 1. All applications for licenses or registrations under this chapter.

10 2. All bonds and proof of workers' compensation required to be filed.

11 3. ~~A statement as to~~ Whether a license, registration certificate,
12 renewal license or renewal registration certificate has been issued under
13 each application and bond.

14 4. If a license or registration certificate is revoked, suspended,
15 cancelled or denied or if a licensee or registrant is placed on probation,
16 the date of filing the order for revocation, suspension, cancellation, denial
17 or probation.

18 5. All individuals, firms, partnerships, associations or corporations
19 that have had a license or registration revoked, suspended or cancelled or
20 that have been placed on probation and a written record of complaints filed
21 against licensees and registrants.

22 C. The department shall maintain all records kept pursuant to
23 subsection B OF THIS SECTION for at least five years. The records, except
24 the financial statement of licensees, are open to inspection as public
25 records.

26 D. The director shall adopt and enforce rules that are not in conflict
27 with the laws of this state and that are necessary to enforce this chapter.

28 E. THE DIRECTOR MAY CONDUCT PERIODIC CRIMINAL HISTORY RECORDS CHECKS
29 PURSUANT TO SECTION 41-1750 FOR THE PURPOSE OF UPDATING THE LICENSING AND
30 REGISTRATION STATUS OF CURRENT LICENSE AND REGISTRATION HOLDERS.

31 Sec. 2. Section 32-2404, Arizona Revised Statutes, is amended to read:

32 32-2404. Private investigator and security guard hearing board;
33 qualifications; appointments; terms; compensation;
34 immunity

35 A. The private investigator and security guard hearing board is
36 established consisting of ~~five~~ SEVEN members and an alternate member who are
37 appointed by the director.

38 B. Each member of the board shall be a citizen of the United States
39 and a resident of this state at the time of appointment. ~~One member~~ TWO
40 MEMBERS shall be ~~a~~ qualifying ~~party~~ PARTIES who ~~is~~ ARE licensed as provided
41 in this chapter. ~~One member~~ TWO MEMBERS shall be ~~a~~ qualifying ~~party~~ PARTIES
42 who ~~is~~ ARE licensed as provided in chapter 26 of this title. Two members
43 shall be certified peace officers with a rank of at least lieutenant who are
44 not employees of the department. One member shall be a public member who
45 shall not have a financial interest in a private investigation or security

1 guard agency and shall not have an immediate family member or a household
2 member who is licensed or registered under this chapter or chapter 26 of this
3 title or who is a certified peace officer. The alternate member shall be a
4 public member who does not have a financial interest in a private
5 investigation or security guard agency and does not have an immediate family
6 member or a household member who is licensed or registered under this chapter
7 or chapter 26 of this title or who is a certified peace officer.

8 C. Each member of the board shall serve for a staggered term of five
9 years beginning and ending on the third Monday in January. The alternate
10 member shall serve a five year term beginning and ending on the third Monday
11 in January. A member, including the alternate member, shall not serve more
12 than one term, except that a member appointed to fill a vacancy may be
13 reappointed for one full term. IF A QUALIFIED REPLACEMENT HAS NOT BEEN FOUND
14 BY THE END OF THE MEMBER'S TERM, THE DIRECTOR MAY EXTEND THE MEMBER'S TERM
15 FOR NO MORE THAN SIX MONTHS OR UNTIL A REPLACEMENT IS FOUND, WHICHEVER OCCURS
16 FIRST.

17 D. The director shall fill a vacancy on the board occurring other than
18 by the expiration of term by appointment of a member for the unexpired term
19 as provided in subsection C of this section. The director, after a hearing,
20 may remove any member of the board for misconduct, incompetency or neglect of
21 duty.

22 E. Members of the board, including the alternate member, are eligible
23 to receive compensation pursuant to section 38-611 for each day actually and
24 necessarily spent in the performance of their duties.

25 F. Members of the board, including the alternate member, are
26 personally immune from suit with respect to all acts done and actions taken
27 in good faith and in furtherance of the purposes of this chapter.

28 Sec. 3. Title 32, chapter 24, article 1, Arizona Revised Statutes, is
29 amended by adding section 32-2413, to read:

30 32-2413. Reciprocal agreements

31 A. THE DEPARTMENT MAY ENTER INTO A RECIPROCAL AGREEMENT WITH A STATE
32 THAT HAS PRIVATE INVESTIGATOR QUALIFICATION LAWS SUBSTANTIALLY SIMILAR TO
33 THIS CHAPTER TO ALLOW A PRIVATE INVESTIGATOR LICENSE OR REGISTRATION TO BE
34 USED BY THE LICENSEE OR REGISTRANT WITHIN THE JURISDICTION OF EITHER THIS
35 STATE OR THE OTHER STATE. THE DEPARTMENT MAY ENTER INTO THE AGREEMENT IF THE
36 ISSUING AUTHORITY FOR THE OTHER STATE MEETS ALL OF THE FOLLOWING CONDITIONS:

37 1. ISSUES A PRIVATE INVESTIGATOR IDENTIFICATION CARD WITH AN
38 EXPIRATION DATE PRINTED ON THE CARD.

39 2. IS AVAILABLE TO VERIFY THE LICENSE OR REGISTRATION STATUS FOR LAW
40 ENFORCEMENT PURPOSES WITHIN THREE BUSINESS DAYS AFTER A REQUEST FOR
41 VERIFICATION.

42 3. HAS DISQUALIFICATION, SUSPENSION AND REVOCATION REQUIREMENTS FOR
43 LICENSES AND REGISTRATIONS.

1 4. REQUIRES THAT THE APPLICANT FOR A LICENSE OR REGISTRATION SUBMIT TO
2 A CRIMINAL HISTORY RECORDS CHECK PURSUANT TO SECTION 41-1750 AND APPLICABLE
3 FEDERAL LAW.

4 B. THE RECIPROCAL AGREEMENT SHALL BE LIMITED AND IS INTENDED ONLY TO
5 ALLOW PRIVATE INVESTIGATORS TO CONTINUE INVESTIGATIONS THAT ORIGINATE IN THE
6 INVESTIGATOR'S HOME STATE AND THAT REQUIRE INVESTIGATION IN ANOTHER
7 STATE. THE RECIPROCAL AGREEMENT SHALL INCLUDE THE FOLLOWING PROVISIONS:

8 1. THE PRIVATE INVESTIGATOR SHALL POSSESS A PRIVATE INVESTIGATOR
9 LICENSE OR REGISTRATION IN GOOD STANDING.

10 2. THE PRIVATE INVESTIGATOR SHALL SPEND NO MORE THAN THIRTY DAYS PER
11 CASE WHILE CONDUCTING AN INVESTIGATION IN THIS STATE.

12 3. THE PRIVATE INVESTIGATOR SHALL PROVIDE WRITTEN NOTIFICATION TO THE
13 DEPARTMENT DESCRIBING THE CASE AND THE DATES TO BE WORKED IN THIS STATE ON
14 THE CASE.

15 4. THE PRIVATE INVESTIGATOR SHALL NOT SOLICIT ANY BUSINESS WHILE IN
16 THIS STATE.

17 Sec. 4. Section 32-2602, Arizona Revised Statutes, is amended to read:
18 32-2602. Administration by director; duty to keep records;
19 rules; criminal history records checks

20 A. The director of the department of public safety shall administer
21 this chapter.

22 B. The department shall keep a record of:

23 1. All applications for licenses or registration under this chapter.

24 2. Whether a license, registration certificate, renewal license or
25 renewal registration certificate has been issued under each application.

26 3. If a license or registration certificate is revoked or suspended,
27 the date of filing the order for revocation or suspension.

28 4. A list of all individuals, qualifying parties, firms, partnerships,
29 associations or corporations that have had licenses or registrations revoked
30 or suspended and a written record of complaints filed against any licensees
31 or registrants.

32 5. All insurance policies required to be filed under this chapter.

33 C. The department shall maintain all records kept pursuant to
34 subsection B OF THIS SECTION for at least five years. The records, except the
35 financial statement of licensees, are open to inspection as public records.

36 D. The department shall adopt and enforce rules that are not in
37 conflict with the laws of this state and that are necessary to enforce this
38 chapter.

39 E. THE DIRECTOR MAY CONDUCT PERIODIC CRIMINAL HISTORY RECORDS CHECKS
40 PURSUANT TO SECTION 41-1750 FOR THE PURPOSE OF UPDATING THE LICENSING AND
41 REGISTRATION STATUS OF CURRENT LICENSE AND REGISTRATION HOLDERS.

1 Sec. 5. Title 32, chapter 26, article 1, Arizona Revised Statutes, is
2 amended by adding section 32-2610, to read:

3 32-2610. Reciprocal agreements; recognition

4 A. THE DEPARTMENT MAY ENTER INTO A RECIPROCAL AGREEMENT WITH A STATE
5 THAT HAS SECURITY GUARD QUALIFICATION LAWS SUBSTANTIALLY SIMILAR TO THIS
6 CHAPTER TO ALLOW A SECURITY GUARD REGISTRATION TO BE USED BY THE REGISTRANT
7 WITHIN THE JURISDICTION OF EITHER THIS STATE OR THE OTHER STATE. THE
8 DEPARTMENT MAY ENTER INTO THE AGREEMENT IF THE ISSUING AUTHORITY FOR THE
9 OTHER STATE MEETS ALL OF THE FOLLOWING CONDITIONS:

10 1. ISSUES A SECURITY GUARD IDENTIFICATION CARD WITH AN EXPIRATION DATE
11 PRINTED ON THE CARD.

12 2. IS AVAILABLE TO VERIFY THE REGISTRATION STATUS FOR LAW ENFORCEMENT
13 PURPOSES WITHIN THREE BUSINESS DAYS AFTER A REQUEST FOR VERIFICATION.

14 3. HAS DISQUALIFICATION, SUSPENSION AND REVOCATION REQUIREMENTS FOR
15 REGISTRATIONS.

16 4. REQUIRES THAT THE APPLICANT FOR A REGISTRATION SUBMIT TO A CRIMINAL
17 HISTORY RECORDS CHECK PURSUANT TO SECTION 41-1750 AND APPLICABLE FEDERAL LAW.

18 B. THE DEPARTMENT MAY RECOGNIZE SECURITY GUARD REGISTRATIONS FROM
19 STATES THAT HAVE SECURITY GUARD QUALIFICATION LAWS SUBSTANTIALLY SIMILAR TO
20 THIS CHAPTER IF THE ISSUING AUTHORITY FOR THE OTHER STATE MEETS ALL OF THE
21 CONDITIONS PRESCRIBED IN SUBSECTION A, PARAGRAPHS 1 THROUGH 4 OF THIS
22 SECTION.

23 C. THE RECIPROCAL AGREEMENT OR RECOGNITION SHALL BE LIMITED AND IS
24 INTENDED ONLY TO ALLOW SECURITY GUARD AGENCIES THAT MAINTAIN BUSINESS
25 OPERATIONS IN MULTIPLE STATES TO USE THEIR SECURITY GUARDS TO MEET TEMPORARY
26 DEMANDS. FOR A SECURITY GUARD FROM ANOTHER STATE TO WORK IN THIS STATE, THE
27 DEPARTMENT SHALL SET APPROPRIATE RESTRICTIONS THAT SHALL INCLUDE THE
28 FOLLOWING PROVISIONS:

29 1. THE SECURITY GUARD SHALL POSSESS A SECURITY GUARD REGISTRATION IN
30 GOOD STANDING FROM ANOTHER STATE.

31 2. THE SECURITY GUARD SHALL BE EMPLOYED BY A SECURITY GUARD AGENCY
32 LICENSED IN THIS STATE THAT POSSESSES A SECURITY GUARD AGENCY LICENSE IN BOTH
33 STATES IN GOOD STANDING.

34 3. THE SECURITY GUARD SHALL WORK NO MORE THAN THIRTY DAYS IN A
35 CALENDAR YEAR IN THIS STATE.

36 4. THE SECURITY GUARD AGENCY SHALL PROVIDE WRITTEN NOTIFICATION TO THE
37 DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT.

38 5. SECURITY GUARDS WHO POSSESS ONLY A TEMPORARY OR PROVISIONAL
39 REGISTRATION SHALL NOT BE PERMITTED TO WORK IN THIS STATE.

40 Sec. 6. Section 32-2636, Arizona Revised Statutes, is amended to read:

41 32-2636. Grounds for disciplinary action; emergency summary
42 suspension; judicial review

43 A. The following constitute grounds for disciplinary action against a
44 licensee or registrant, or if the licensee is other than an individual,
45 against its qualifying party or any of its associates, directors or managers:

1 1. Using any letterhead, advertisement or other printed matter to
2 represent, or in any other manner representing, that the licensee,
3 registrant, qualifying party or associate, director or manager is an
4 instrumentality of the federal government or any state or political
5 subdivision of a state.

6 2. Using a name that is different from that under which the licensee,
7 registrant, qualifying party or associate, director or manager is currently
8 licensed or registered for any advertisement, solicitation or contract to
9 secure business under this chapter unless the name is an authorized
10 fictitious name.

11 3. Falsifying fingerprints, photographs or other documents while
12 operating pursuant to this chapter.

13 4. Impersonating, or permitting or aiding and abetting an employee to
14 impersonate, a law enforcement officer or employee of the United States or
15 any state or political subdivision of a state.

16 5. Knowingly violating, or advising, encouraging or assisting in the
17 violation of, any statute, court order, warrant or injunction in the course
18 of business as a licensee or registrant under this chapter.

19 6. Committing or knowingly permitting any employee to commit any
20 violation of this chapter or rules adopted pursuant to this chapter.

21 7. Committing an act of misconduct involving a weapon pursuant to
22 section 13-3102.

23 8. Conviction of a felony.

24 9. Conviction of any act of personal violence or force against any
25 person or conviction of threatening to commit any act of personal violence or
26 force against any person.

27 10. Fraud or wilful misrepresentation in applying for an original
28 license or registration or the renewal of an existing license or
29 registration.

30 11. Soliciting business for an attorney in return for compensation.

31 12. Conviction of any act constituting fraud.

32 13. Being on parole, on community supervision, on work furlough, on
33 home arrest, on release on any other basis or named in an outstanding arrest
34 warrant.

35 14. Serving a term of probation pursuant to a conviction for any act of
36 personal violence or domestic violence as defined in section 13-3601 or an
37 offense that has the same elements as a domestic violence offense listed in
38 section 13-3601, subsection A.

39 15. Wilfully failing or refusing to render client services or a report
40 as agreed between the parties and for which compensation has been paid or
41 tendered pursuant to the agreement of the parties.

42 16. The unauthorized release of information acquired on behalf of a
43 client by a licensee, associate or registrant as a result of activities
44 regulated under this chapter.

1 17. Failing or refusing to cooperate with or refusing access to an
2 authorized representative of the department engaged in an official
3 investigation pursuant to this chapter.

4 18. Employing or contracting with any unregistered or improperly
5 registered person or unlicensed or improperly licensed person or agency to
6 conduct activities regulated under this chapter if the licensure or
7 registration status was known or could have been ascertained by reasonable
8 inquiry.

9 19. Permitting, authorizing, aiding or in any way assisting a
10 registered employee to conduct services as described in this chapter on an
11 independent contractor basis and not under the authority of the licensed
12 agency.

13 20. Failing to maintain in full force and effect workers' compensation
14 insurance, if applicable.

15 21. Conducting security guard services regulated by this chapter on an
16 expired, revoked or suspended license or registration.

17 22. Accepting employment, contracting or in any way engaging in
18 employment that has an adverse impact on security guard services being
19 conducted on behalf of clients.

20 23. Advertising in a false, deceptive or misleading manner.

21 24. Failing to display on request the identification card issued by the
22 department pursuant to section 32-2624.

23 25. Committing any act of unprofessional conduct.

24 26. BEING ARRESTED FOR ANY OFFENSE LISTED IN THIS CHAPTER THAT WOULD
25 DISQUALIFY THE LICENSEE, REGISTRANT, QUALIFYING PARTY OR ANY OF ITS
26 ASSOCIATES, DIRECTORS OR MANAGERS FROM OBTAINING A LICENSE OR REGISTRATION.

27 B. An officer, director, associate, partner, qualifying party,
28 employee or manager of the holder of an agency license issued pursuant to
29 this chapter who is found in violation of this chapter shall be denied the
30 privilege of operating under such a license. The remaining officers,
31 directors, associates, partners, employees or managers of such licensee who
32 are innocent of such violations may carry on the business.

33 C. Any person aggrieved by a decision of the director may request a
34 hearing pursuant to title 41, chapter 6, article 10. Except as provided in
35 section 41-1092.08, subsection H, final decisions of the director are subject
36 to judicial review pursuant to title 12, chapter 7, article 6.

37 D. On completion of an investigation, the director:

38 1. May dismiss the case.

39 2. May take emergency action.

40 3. May issue a letter of concern, if applicable.

41 4. May forward the findings to the board for review and possible
42 disciplinary action.

43 5. Shall place all records, evidence, findings and conclusions and any
44 other information pertinent to the investigation in the public records
45 section of the file maintained at the department.

1 6. SHALL SUSPEND THE LICENSE OR REGISTRATION OF A PERSON WHO IS
2 ARRESTED FOR AN OFFENSE LISTED IN THIS CHAPTER THAT WOULD DISQUALIFY THE
3 PERSON FROM OBTAINING A LICENSE OR REGISTRATION.

4 E. A letter of concern is a public document and may be used in future
5 disciplinary actions against a licensee or registrant.

6 F. If the department finds, based on its investigation, that the
7 public health, safety or welfare requires emergency action, the director may
8 order a summary suspension of a license or registration pending proceedings
9 for revocation or other action. If the director issues this order, the
10 department shall serve the licensee or registrant with a written notice of
11 complaint and formal hearing, setting forth the charges made against the
12 licensee or registrant and the licensee's or registrant's right to a formal
13 hearing before the board pursuant to title 41, chapter 6, article 10.

14 G. If the department finds, based on its investigation, that a
15 violation of subsection A of this section occurred, a hearing by the board
16 may be scheduled pursuant to title 41, chapter 6, article 10. Notice of the
17 hearing shall be sent by certified mail, return receipt requested, to the
18 licensee's or registrant's last known address in the department's files.

19 H. Based on information the board receives during a hearing pursuant
20 to title 41, chapter 6, article 10, it may recommend to the director that the
21 director:

22 1. Dismiss the complaint if the board believes it is without merit.

23 2. Fix a period and terms of probation best adapted to protect the
24 public health and safety and to rehabilitate or educate the licensee or
25 registrant.

26 3. Place the license or registration on suspension for a period of not
27 more than twelve months.

28 4. Revoke the license or registration.

29 I. The director shall review the records of a finding by the board
30 involving a disciplinary action and may affirm, reverse, adopt, modify,
31 supplement, amend or reject the recommendation of the board. On a finding by
32 the board and review and concurrence by the director that a licensee or
33 registrant committed a violation of subsection A of this section, the
34 probation, suspension or revocation applies to all licenses or registrations
35 held by a licensee or registrant under this chapter.